

ASSEMBLY BILL

No. 553

Introduced by Assembly Member Chavez

February 18, 2003

An act to amend, repeal, and add Section 7205 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 553, as introduced, Chavez. Local sales and use taxes: concrete: point of sale.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose sales and use taxes pursuant to the adoption of local ordinances. That law requires, if a retailer has more than one place of business in the state, that the places at which the sales of that retailer are consummated for purposes of a local sales tax be determined in accordance with rules and regulations of the State Board of Equalization.

This bill would specify, for purposes of applying a local sales tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law to any sale of concrete by a concrete batch plant, that the point of sale, if the principal negotiations for that sale are conducted in this state and the retailer has more than one place of business in the state, is the place where the concrete is manufactured. These provisions would be repealed on January 1, 2005.

This bill would require the Legislative Analyst to report to the Legislature on specified subjects relating to allocation of local sales taxes.

This bill would take effect immediately as a tax levy, but would specify that it would become operative on the first day of the first

calendar quarter commencing more than 90 days after the effective date of this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7205 of the Revenue and Taxation Code
2 is amended to read:

3 7205. (a) For the purpose of a sales tax imposed by an
4 ordinance adopted pursuant to this part, all retail sales are
5 consummated at the place of business of the retailer unless the
6 tangible personal property sold is delivered by the retailer or his
7 or her agent to an out-of-state destination or to a common carrier
8 for delivery to an out-of-state destination. The gross receipts from
9 those sales shall include delivery charges, when those charges are
10 subject to the state sales and use tax, regardless of the place to
11 which delivery is made.

12 (b) (1) In the event a retailer has no permanent place of
13 business in the state or has more than one place of business, the
14 place or places at which the retail sales are consummated for the
15 purpose of a sales tax imposed by an ordinance adopted pursuant
16 to this part shall, subject to ~~paragraph (2)~~ paragraphs (2) and (3),
17 be determined under rules and regulations to be prescribed and
18 adopted by the board.

19 (2) In the case of a sale of jet fuel, the place at which the retail
20 sale of that jet fuel is consummated for the purpose of a sales tax
21 imposed by an ordinance adopted pursuant to this part is the point
22 of the delivery of that jet fuel to the aircraft, if both of the following
23 conditions are met:

24 (A) The principal negotiations for the sale are conducted in this
25 state.

26 (B) The retailer has more than one place of business in the state.

27 (3) *In the case of a sale of concrete by a concrete batch plant,*
28 *the place at which the retail sale of that concrete is consummated*
29 *for the purpose of a sales tax imposed by an ordinance adopted*
30 *pursuant to this part is the point of the manufacture of that concrete*
31 *at the batch plant from which delivery of the concrete is made to*
32 *the end-use customer, if both of the following conditions are met:*

1 (A) *The principal negotiations for the sale are conducted in this*
2 *state.*

3 (B) *The retailer has more than one place of business in the state.*

4 (c) *This section shall remain in effect only until January 1,*
5 *2005, and as of that date is repealed, unless a later enacted statute,*
6 *that is enacted before January 1, 2005, deletes or extends that date.*

7 SEC. 2. Section 7205 is added to the Revenue and Taxation
8 Code, to read:

9 7205. (a) For the purpose of a sales tax imposed by an
10 ordinance adopted pursuant to this part, all retail sales are
11 consummated at the place of business of the retailer unless the
12 tangible personal property sold is delivered by the retailer or his
13 or her agent to an out-of-state destination or to a common carrier
14 for delivery to an out-of-state destination. The gross receipts from
15 those sales shall include delivery charges, when those charges are
16 subject to the state sales and use tax, regardless of the place to
17 which delivery is made.

18 (b) (1) In the event a retailer has no permanent place of
19 business in the state or has more than one place of business, the
20 place or places at which the retail sales are consummated for the
21 purpose of a sales tax imposed by an ordinance adopted pursuant
22 to this part shall, subject to paragraph (2), be determined under
23 rules and regulations to be prescribed and adopted by the board.

24 (2) In the case of a sale of jet fuel, the place at which the retail
25 sale of that jet fuel is consummated for the purpose of a sales tax
26 imposed by an ordinance adopted pursuant to this part is the point
27 of the delivery of that jet fuel to the aircraft, if both of the following
28 conditions are met:

29 (A) The principal negotiations for the sale are conducted in this
30 state.

31 (B) The retailer has more than one place of business in the state.

32 (c) This section shall become operative on January 1, 2005.

33 SEC. 3. The Legislative Analyst, with the assistance of the
34 State Board of Equalization, shall submit a report to the
35 Legislature by December 31, 2003, that addresses the following
36 issues:

37 (a) The fiscal implications for local governments of changing
38 the allocation of local sales tax revenues from a system based on
39 point of negotiation to one based on point of delivery, for sales of

1 items delivered in California but outside the county in which the
2 retailer is located.

3 (b) To the extent data is available, the nature and frequency of
4 revenue-sharing agreements between retailers and local taxing
5 jurisdictions.

6 (c) The types of businesses with multiple distribution locations
7 within California that are typically known to place service
8 burdens, including environmental problems, on the jurisdictions
9 in which they are located.

10 SEC. 4. This act provides for a tax levy within the meaning of
11 Article IV of the Constitution and shall go into immediate effect.
12 However, this act shall become operative on the first day of the
13 calendar quarter commencing more than 90 days after the effective
14 date of this act.

